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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

SWEET PEOPLE APPAREL, INC.
d/b/a MISS ME, a California
corporation, and RCRV, INC. d/b/a
ROCK REVIVAL, a California
corporation,

v.
Plaintiffs,

PHOENIX FIBERS, INC.. an Arizona corporation, U.S. GENERAL EXPORT, INC.. a California corporation, SAC INTERNATIONAL TRADERS, INC., a California corporation, SHAUKAT ALI CHOHAN, an individual, COMAK TRADING, INC., a California corporation, LYDIA EVILSA TERRAZAS CHO, an individual, MYUNG KWON CHO, an individual, TIFFANY ALANA WOLFF, an individual d/b/a MISS V LANE, XYZ COMPANIES 1-10, and JOHN AND JANE DOES 1-10

Defendants.

Case No.: 2:16-cv-00940

**FIRST AMENDED COMPLAINT
FOR:**

- (1) Breach of Contract;
 - (2) Trademark Infringement in Violation of 15 U.S.C. § 1114;
 - (3) False Designation of Origin and Unfair Competition in Violation of 15 U.S.C. § 1125(a);
 - (4) Unfair Competition in Violation of California Bus. & Prof. Code §§ 17200 *et seq.*;
 - (5) Dilution in Violation of California Bus. & Prof. Code § 14247;
 - (6) Common Law Trademark Infringement and Unfair Competition.

Plaintiffs Sweet People Apparel, Inc. d/b/a Miss Me (“Sweet People”) and RCRV, Inc. d/b/a Rock Revival (“RCRV”) (collectively “Plaintiffs”), by and through their undersigned counsel, complain of defendants Phoenix Fibers, Inc. (“Phoenix Fibers”), U.S. General Export, Inc. (“U.S. General”), SAC International Traders, Inc. (“SAC Traders”), Shaukat Ali Chohan (“Chohan”), Comak Trading, Inc. (“Comak Trading”), Lydia Evilsa Terrazas Cho (“Lydia Cho”), Myung Kwon Cho (“Myung Cho”), Tiffany Alana Wolff d/b/a Miss V Lane (“Wolff”), XYZ Companies 1-10, and John and Jane Does 1-10 (U.S. General, SAC Traders, Chohan, Comak Trading, Lydia Cho, Myung Cho, Wolff, XYZ Companies 1-10, and John and Jane Does 1-10 being hereinafter collectively referred to as the “Retailer Defendants,” and Phoenix Fibers and the Retailer Defendants being hereinafter collectively referred to as “Defendants”), and allege as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121. Plaintiffs' claims are predicated upon the Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051 *et seq.*, and substantial and related claims under the statutory and common law of the State of California.

2. Venue is properly founded in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), because Defendants are either subject to personal jurisdiction within this judicial district, and/or because a substantial part of the events giving rise to Plaintiffs' claims occurred within this judicial district.

NATURE OF THE ACTION

3. Plaintiffs are affiliated denim and apparel companies which seek injunctive relief and damages for acts of trademark infringement, false designation of origin, and unfair competition in violation of the laws of the United States, as well as injunctive relief and damages for acts of trademark infringement, unfair competition, dilution, and breach of contract in violation of the laws of the State of California.

4. This case arises from Phoenix Fibers' unauthorized distribution and/or

1 sale of tens of thousands of units of damaged, unfinished, returned, obsolete, or
2 otherwise second-quality denim and apparel products bearing Plaintiffs' famous
3 MISS ME (Sweet People) and ROCK REVIVAL (RCRV) trademarks (collectively,
4 "Plaintiffs' Marks"), that Plaintiffs had donated to Phoenix Fibers, in each instance,
5 on the agreement and understanding that such products (the "Donated Products")
6 would be destroyed and recycled into "shoddy fiber," for use in manufacturing
7 environmentally friendly products such as thermal insulation materials. Despite those
8 agreements, Phoenix Fibers knowingly distributed and/or sold the Donated Products
9 to parties, including, directly or indirectly, the Retailer Defendants, who intended to
10 and did resell the Donated Products into secondary wholesale and retail channels, and
11 eventually to ultimate consumers.

12 5. Phoenix Fibers' conduct was in violation of its agreements with
13 Plaintiffs, and specifically its undertakings that the Donated Products — which,
14 Phoenix Fibers knew, were not intended to be sold to consumers, given that they did
15 not meet Plaintiffs' strict quality standards and/or specifications — would be
16 destroyed and converted into shoddy fiber, and such shoddy fiber would then be
17 delivered to Phoenix Fibers' sister company, Bonded Logic, Inc. ("Bonded Logic"),
18 for use in manufacturing environmentally friendly products.

19 6. In addition to Phoenix Fibers' breach of its agreements with Plaintiffs,
20 Phoenix Fibers and the Retailer Defendants have each infringed upon and caused
21 irreparable harm to Plaintiffs' Marks, have unfairly competed against Plaintiffs, and
22 have likely caused widespread marketplace confusion through their introduction of
23 large quantities of Plaintiffs' second-quality denim and apparel products (*i.e.*, the
24 Donated Products) — each such product bearing one of Plaintiffs' Marks — into
25 wholesale and retail distribution channels for ultimate sale to consumers, when such
26 products were never intended for distribution and/or sale to consumers.

27 7. Defendants' conduct was undertaken in bad faith and without Plaintiffs'
28 consent, and Defendants deliberately intended to introduce the Donated Products into

an unauthorized distribution channel so that they could profit from the sale of products bearing Plaintiffs' famous, highly desired Marks.

THE PARTIES

8. Plaintiff Sweet People is a corporation duly organized and existing under the laws of the State of California, and maintains its principal place of business at 4715 S. Alameda Street, Los Angeles, California 90058.

9. Plaintiff RCRV is a corporation duly organized and existing under the laws of the State of California, and maintains its principal place of business at 4715 S. Alameda Street, Los Angeles, California 90058.

10. Upon information and belief, defendant Phoenix Fibers is a corporation duly organized and existing under the laws of the State of Arizona, and maintains its principal place of business located at 400 East Ray Road, Chandler, Arizona 85225.

11. Upon information and belief, defendant U.S. General is a corporation duly organized and existing under the laws of the State of California, and maintains its principal place of business located at 1423 E 58th Place, Los Angeles, California 90001.

12. Upon information and belief, defendant SAC Traders is a corporation duly organized and existing under the laws of the State of California, and maintains its principal place of business located at 6130 Avalon Boulevard, Los Angeles, California 90003.

13. Upon information and belief, defendant Chohan is an individual who is and was at all relevant times a resident of the State of California. Upon further information and belief, Chohan is the owner and President of SAC Traders, is the moving, active, conscious force directing SAC Traders' wrongful acts, and is personally responsible and liable for the wrongful acts of SAC Traders, as described herein.

14. Upon information and belief, defendant Comak Trading is a corporation duly organized and existing under the laws of the State of California, and maintains

its principal place of business located at 2550 South Soto Street, Vernon, California 90058.

15. Upon information and belief, defendant Lydia Cho is an individual who is and was at all relevant times a resident of the State of California. Upon further information and belief, Lydia Cho is the co-owner and co-President of Comak Trading, is a moving, active, conscious force directing Comak Trading's wrongful acts, and is personally responsible and liable for the wrongful acts of Comak Trading, as described herein.

16. Upon information and belief, defendant Myung Cho is an individual who is and was at all relevant times a resident of the State of California. Upon further information and belief, Myung Cho is the co-owner and co-President of Comak Trading, is a moving, active, conscious force directing Comak Trading's wrongful acts, and is personally responsible and liable for the wrongful acts of Comak Trading, as described herein.

17. Upon information and belief, defendant Wolff is an individual d/b/a Miss V Lane who is and was at all relevant times a resident of the State of California.

18. Upon information and belief, defendants Phoenix Fibers, U.S. General, SAC Traders, Chohan, Comak Trading, Lydia Cho, Myung Cho and Wolff are acting in conjunction with various unknown individuals and wholesale and/or retail entities, including, without limitation, those parties denoted herein as John and Jane Does 1-10 and XYZ Companies 1-10. If the identities of these parties become known, Plaintiffs will amend the Complaint to include their names.

SWEET PEOPLE'S BUSINESS

19. Sweet People manufactures, promotes, sells and distributes high-quality denim and apparel products throughout the United States, including within this judicial district, under the famous MISS ME brand name. Sweet People's MISS ME brand denim and apparel products are prominently promoted and sold by such well-known fashion retailers and department stores as Macy's, Dillard's and The Buckle,

both in-store and online, as well as through Sweet People's own ecommerce site <www.missme.com>.

3 20. Over the past several years, MISS ME brand denim and apparel products
4 have become extremely popular in the highly competitive jeanswear market. As a
5 result of their popularity, Sweet People's MISS ME brand denim and apparel
6 products have received extensive media coverage and have appeared in numerous
7 widely circulated fashion magazines, including *In Style*, *Elle*, *Glamour*, *944*
8 *Magazine*, *Harper's Bazaar*, *Lucky*, *Teen Vogue* and *Nylon*. In addition, celebrities
9 such as Bella Thorne, Miley Cyrus, Paris Hilton and Beyonce have been
10 photographed wearing MISS ME brand denim and apparel products.

11 21. Sweet People has been using the MISS ME brand name as its primary
12 trademark since 2001, and is the owner of numerous federal registrations and pending
13 applications in the United States and around the world for its MISS ME Trademark.
14 True and correct copies of certain of the U.S. registration certificates for Sweet
15 People's MISS ME Trademark are attached hereto as Exhibit A.

16 22. In addition to being, in and of itself, a highly distinctive mark, as a result
17 of Sweet People's uninterrupted and continuous promotion and sale of MISS ME
18 brand denim and apparel products over the last fifteen years, and the widespread
19 editorial coverage such products have received, Sweet People's MISS ME Trademark
20 has developed substantial strength among consumers and the trade. Accordingly,
21 Sweet People's MISS ME Trademark immediately identifies Sweet People as the
22 exclusive source of denim and apparel products that bear such Mark, and signifies
23 goodwill of incalculable value.

RCRV'S BUSINESS

25 23. RCRV manufactures, promotes, sells and distributes high-quality denim
26 and apparel products throughout the United States, including within this judicial
27 district, under the famous ROCK REVIVAL brand name. RCRV's ROCK
28 REVIVAL brand denim and apparel products are prominently promoted and sold by

1 such well-known fashion retailers as The Buckle and Nordstrom, and hundreds of
2 high-quality independent boutiques. In addition, such products are featured and sold
3 online at RCRV's official website, located at <www.rockrevival.com>, and on
4 websites affiliated with RCRV's authorized retail department stores, including The
5 Buckle and Nordstrom.

6 24. Over the past several years, ROCK REVIVAL brand denim and apparel
7 products have become extremely popular in the highly competitive jeanswear market.
8 In particular, the ROCK REVIVAL Trademark has enjoyed extensive coverage in
9 leading mainstream and fashion publications in the United States. Further, celebrities
10 have repeatedly been photographed wearing ROCK REVIVAL denim and apparel
11 products, creating millions of commercial "impressions" of the brand name, including
12 Steven Tyler, lead singer of the famous rock back Aerosmith, in *Rolling Stone*
13 magazine; the Oscar winning actress, Halle Berry, in *US Weekly*; Teri Hatcher on the
14 popular television show Desperate Housewives; Casey James, a finalist on the then-
15 number one rated television show, American Idol; and former National Football
16 League star and Dancing With The Stars winner, Hines Ward.

17 25. RCRV and its predecessor have been using the ROCK REVIVAL brand
18 name as its primary trademark since 2006, and RCRV is the owner of numerous
19 federal registrations and pending applications in the United States and around the
20 world for its ROCK REVIVAL Trademark. True and correct copies of certain of the
21 U.S. registration certificates for the ROCK REVIVAL Trademark are attached hereto
22 as Exhibit B.

23 26. As a result of the uninterrupted and continuing promotion and sale of
24 denim and apparel products bearing the ROCK REVIVAL Trademark, the Mark has
25 developed substantial strength among consumers, and has come to immediately
26 identify RCRV as the exclusive source of products bearing the Mark, and signifies
27 goodwill of incalculable value.

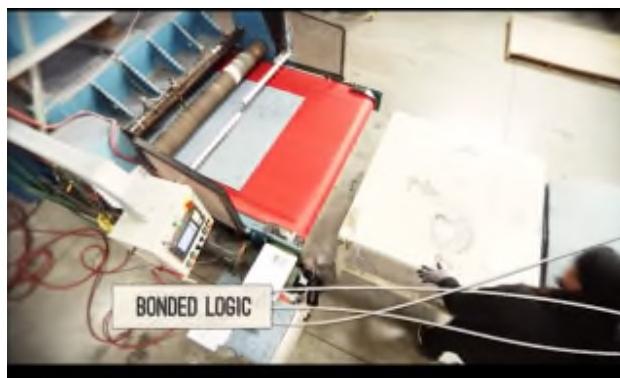
PHOENIX FIBERS' BUSINESS

27. Upon information and belief, Phoenix Fibers is currently, and at all times relevant hereto has been promoting itself as being in the business of destroying denim and other cotton fabric by converting it into “shoddy fiber,” *i.e.*, material used to manufacture different environmentally friendly products, such as thermal insulation materials.

28. Upon information and belief, Phoenix Fibers obtains denim and cotton clothing and materials from third parties, including textile manufacturers and well-known jeans companies, and converts these goods into shoddy fiber.

29. As part an initiative it calls “Sustainability in Action,” Phoenix Fibers actively solicits donations of second-quality materials, and other materials that would otherwise be destroyed, from clothing and denim companies such as Plaintiffs. Phoenix Fibers further promotes the fact that it delivers the shoddy fiber it converts from materials donated to it by companies like Plaintiffs to its sister company, Bonded Logic, which, in turn, uses the shoddy fiber to produce sustainable, environmentally friendly insulation products. Phoenix Fibers’ website displays the following photographs of these activities:





PLAINTIFFS' BUSINESS DEALINGS WITH PHOENIX FIBERS

30. Plaintiffs were first introduced to Phoenix Fibers in 2011, when Phoenix Fibers represented that it was a recycler of denim and other cotton blended materials, and would be pleased to become the depository for Plaintiffs' second-quality denim and apparel products and materials that Plaintiffs would otherwise have destroyed themselves.

31. Prior to becoming involved with Phoenix Fibers, Plaintiffs routinely incinerated, shredded, or otherwise destroyed all of their second-quality denim and apparel products, *i.e.*, damaged, unfinished, returned, or obsolete products, or other

1 goods or materials Plaintiffs had no intention of selling to ultimate consumers.
2 Plaintiffs took these steps in order to prevent their second-quality denim and apparel
3 products from finding their way into wholesale and/or retail markets and being sold
4 to consumers, as such products would then cause irreparable harm to the hard-earned
5 image and reputation of Plaintiffs and their high-quality brands.

6 32. Thereafter, having been introduced to Phoenix Fibers and Bonded Logic,
7 Plaintiffs decided to start disposing of their second-quality denim and apparel
8 products in a more environmentally friendly manner, and began to donate such goods
9 to Phoenix Fibers for destruction and conversion into shoddy fiber. Since
10 approximately 2013, Plaintiffs have regularly donated large quantities of their
11 second-quality denim and apparel products to Phoenix Fibers, with the understanding
12 and agreement that such Donated Products would be converted into shoddy fiber for
13 use in the environmentally sustainable insulation products manufactured by Bonded
14 Logic, just as Phoenix Fibers represented to Plaintiffs. Through October 2015,
15 Plaintiffs have delivered over 500,000 units of Donated Products to Phoenix Fibers.

16 33. Most recently, in 2015, Plaintiffs shipped Donated Products to Phoenix
17 Fibers on the following dates: January 29, 2015; February 23, 2015; March 12, 2015;
18 May 19, 2015; June 10, 2015; August 26, 2015; September 9, 2015; September 28,
19 2015; and October 16, 2015. Those shipments alone contained over 150,000 units of
20 Donated Products. Each of such Donated Products prominently bore one of the
21 Plaintiffs' Marks.

22 34. Plaintiffs made each of the foregoing shipments of Donated Products to
23 Phoenix Fibers on the understanding that Phoenix Fibers would do what it said it
24 would do with them — that is, destroy the Donated Products by shredding them into
25 shoddy fiber. Accordingly, Plaintiffs understood, and the parties agreed, that all
26 Donated Products would travel only in channels that would lead to their destruction
27 (the "Destruction Channel"), and would not be sold or otherwise transferred into a
28 wholesale or retail channel for ultimate sale to consumers (the "Selling Channel").

DEFENDANTS' UNLAWFUL CONDUCT

35. Much to their shock and disappointment, in or about October 2015 Plaintiffs learned that significant quantities of second-quality denim and apparel products that they had donated to Phoenix Fibers for destruction (*i.e.*, Donated Products) were being offered for sale at wholesale by the Retailer Defendants, and were being sold at retail on various websites such as eBay.

36. Upon learning of this, on or about October 27, 2015, Plaintiffs contacted Phoenix Fibers' Plant Manager, Steve Johnson. During that conversation, Mr. Johnson stated to Plaintiffs that Phoenix Fibers' warehouse could have experienced "leakage" issues as a result of not having sufficient space to securely store the Donated Products.

37. Shortly thereafter, Plaintiffs contacted the President of Bonded Logic, Tod Kean, to reiterate their concerns about the significant quantities of Donated Products that had found their way out of Phoenix Fibers' warehouse and into the Selling Channel. During that contact, Mr. Kean confirmed to Plaintiffs that Phoenix Fibers' warehouse could have experienced "leakage" issues as a result of not having sufficient space to securely store the Donated Products. Mr. Kean further assured Plaintiffs that such issues would be promptly addressed, and that going forward the Donated Products would be properly secured.

38. Despite these assurances, Plaintiffs' subsequent investigation revealed that there was an increasing volume of Donated Products being made available for wholesale and retail purchase in the Selling Channel by numerous parties, including the Retailer Defendants.

39. Accordingly, Plaintiffs' counsel sent a letter to Phoenix Fibers/Bonded Logic on November 17, 2015, demanding that immediate action be taken to cut off all "leakage" of Donated Products, and to provide certain undertakings with respect to the steps that would be taken to remedy this serious breach of Plaintiffs' agreements with Phoenix Fibers.

1 40. Thereafter, by letter dated December 3, 3015, Phoenix Fibers' counsel
2 responded to Plaintiffs' demands by stating that "[w]hether any product was
3 previously removed from [Phoenix Fibers'] main warehouse floor by anyone is
4 unknown to Phoenix Fibers," and, in a complete about-face from Mr. Kean's prior
5 statements, advised that "Phoenix Fibers has decided to no longer accept [Plaintiffs']
6 donations of products for recycling." Phoenix Fibers' counsel further advised that
7 Phoenix Fibers would "allow [Plaintiffs] to reclaim the unprocessed products at their
8 expense."

9 41. Accordingly, at significant expense, on December 15 and 16, 2015,
10 Plaintiffs reclaimed 128 pallets (or approximately 70,000 units) of Donated Products
11 from Phoenix Fibers' Arizona warehouse.

12 42. Moreover, between December 2015 and February 2016, Plaintiffs,
13 working with the assistance of private investigators, have taken proactive steps to
14 minimize the incalculable harm that has been caused and is continuing to be caused to
15 Plaintiffs' Marks due to the introduction of Donated Products into the Selling
16 Channel, by covertly purchasing over 29,000 units of Donated Products from the
17 Retailer Defendants at a cost of over \$190,000. Despite these efforts, however,
18 significant quantities of Donated Products remain in the Selling Channel.

19 43. Upon information and belief, Phoenix Fibers has been distributing
20 and/or selling the Donated Products into the Selling Channel without Plaintiffs'
21 knowledge or consent. In particular, Phoenix Fibers has been distributing and/or
22 selling the Donated Products to wholesalers and retailers, including, directly or
23 indirectly, U.S. General, SAC Traders, Comak Trading and Wolff, with the
24 knowledge that such parties would resell the Donated Products in the Selling Channel
25 for ultimate purchase by end consumers.

26 44. Upon information and belief, Phoenix Fibers' introduction of the
27 Donated Products into the Selling Channel is in violation of its agreements with
28 Plaintiffs, which required that the Donated Products be introduced only into the

1 Destruction Channel, and that they be shredded and destroyed by Phoenix Fibers and
2 only then used to manufacture environmentally friendly products.

3 45. Upon information and belief, U.S. General purchased, and then offered
4 for sale, Donated Products, knowing that such second-quality goods were not
5 intended to be sold in the Selling Channel.

6 46. Upon information and belief, SAC Traders, through Chohan, purchased,
7 and then offered for sale, Donated Products, knowing that such second-quality goods
8 were not intended to be sold in the Selling Channel.

9 47. Upon information and belief, Comak Trading, through Lydia Cho and
10 Myung Cho, purchased, and then offered for sale, Donated Products, knowing that
11 such second-quality goods were not intended to be sold in the Selling Channel.

12 48. Upon information and belief, Wolff purchased, and then offered for sale,
13 Donated Products, knowing that such second-quality goods were not intended to be
14 sold in the Selling Channel.

15 49. Upon information and belief, XYZ Companies 1-10 and John and Jane
16 Does 1-10 purchased, and then offered for sale, Donated Products, knowing that such
17 second-quality goods were not intended to be sold in the Selling Channel.

18 50. Upon information and belief, Defendants have deliberately and
19 knowingly supplied, distributed, promoted, advertised, offered for sale and/or sold the
20 Donated Products, each of which prominently bears one of Plaintiffs' famous
21 trademarks, MISS ME (Sweet People) or ROCK REVIVAL (RCRV). As Defendants
22 were aware, such products were and are materially different from first-quality
23 products Plaintiffs authorize for distribution in the Selling Channel and for sale to
24 ultimate consumers.

25 51. Upon information and belief, Defendants were aware that the Donated
26 Products were of second quality, and were intended by Plaintiffs only for destruction
27 at the time they were delivered to Phoenix Fibers. Accordingly, upon information
28 and belief, Defendants have been engaging in the above-described activities

knowingly and intentionally, and/or with reckless disregard for Plaintiffs' rights and
the goodwill symbolized by Plaintiffs' Marks.

3 52. Upon information and belief, Defendants intend to continue to supply,
4 distribute, promote, advertise, offer for sale and/or sell the Donated Products in this
5 manner unless otherwise restrained by this Court. Upon further information and
6 belief, Plaintiffs are advised that additional Donated Products will be so introduced
7 into the Selling Channel.

8 53. The continued introduction of the Donated Products into the Selling
9 Channel, and their subsequent sale to ultimate consumers, will likely cause
10 consumers, either at the point-of-sale or post-sale, to believe that such second-quality
11 products were authorized, sponsored, or approved for sale to consumers by Plaintiffs.

12 54. Unless Defendants' conduct is enjoined, such conduct will severely
13 inhibit and/or destroy the reputation among consumers, which Plaintiffs have worked
14 tirelessly to build, that their denim and apparel products sold under the MISS ME and
15 ROCK REVIVAL Marks are of the highest quality.

FIRST CLAIM FOR RELIEF

BREACH OF CONTRACT

(PHOENIX FIBERS)

19 55. The allegations set forth in paragraphs 1 through 54 hereof are adopted
20 and incorporated by reference as if fully set forth herein.

21 56. Phoenix Fibers had a separate contractual obligation, in each instance
22 that Plaintiffs delivered Donated Products to it, requiring Phoenix Fibers to destroy
23 the Donated Products, *i.e.*, to ensure that such goods were introduced only into the
24 Destruction Channel, and were not transferred and/or sold into the Selling Channel.

25 57. Phoenix Fibers breached its contractual obligations by willfully and
26 intentionally introducing the Donated Products into the Selling Channel, including,
27 without limitation, by selling or otherwise transferring the Donated Products to the
28 Retailer Defendants, among others, knowing full well that such Defendants intended

1 to, in turn, resell the Donated Products at wholesale or retail, ultimately for purchase
2 by consumers.

3 58. Plaintiffs have fully performed their contractual obligations to Phoenix
4 Fibers by delivering the Donated Products to Phoenix Fibers for destruction.

5 59. As a direct result of Phoenix Fibers' aforementioned breach of its
6 agreements with Plaintiffs, Donated Products — *i.e.*, second-quality goods bearing
7 Plaintiffs' incalculably valuable trademarks — are being sold to ultimate consumers,
8 thereby causing immediate and irreparable harm to the goodwill of the MISS ME and
9 ROCK REVIVAL Marks, and Plaintiffs have no adequate remedy at law.

10 60. In addition, as a result of Phoenix Fibers' aforesaid breaches, Plaintiffs
11 have suffered monetary damages in an amount to be determined at trial, including,
12 without limitation, the significant costs and expenses they have incurred in
13 investigating Defendants' activities, reclaiming Donated Products from Phoenix
14 Fibers, and otherwise removing tens of thousands of units of Donated Products from
15 the Selling Channel.

16 **SECOND CLAIM FOR RELIEF**
17 **TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)**
18 **(ALL DEFENDANTS)**

19 61. The allegations set forth in paragraphs 1 through 60 hereof are adopted
20 and incorporated by reference as if fully set forth herein.

21 62. By the acts alleged herein, Defendants are making unauthorized use of
22 Sweet People's MISS ME Mark and RCRV's ROCK REVIVAL Mark, by
23 transferring or offering for sale Donated Products bearing these Marks in the Selling
24 Channel, which products are materially different from the first-quality products
25 bearing such Marks that Plaintiffs have authorized for sale in the Selling Channel and
26 to ultimate consumers, and have therefore infringed, and continue to infringe
27 Plaintiffs' Marks, all in violation of 15 U.S.C. § 1114.

28 63. Defendants' unauthorized distribution and/or sale of Donated Products

bearing the Marks constitutes a commercial use in commerce, and Plaintiffs have not authorized or approved any such use.

3 64. Upon information and belief, Defendants' use of Plaintiffs' Marks, by
4 transferring or offering for sale the Donated Products in the Selling Channel, has
5 caused, is intended to cause, and is likely to continue to cause confusion, mistake and
6 deception among the general consuming public as to Plaintiffs' authorization,
7 sponsorship, or approval of the sale of Donated Products — *i.e.*, second-quality goods
8 bearing Plaintiffs' incalculably valuable trademarks — to consumers, and/or a
9 possible affiliation, connection or association between Plaintiffs and Defendants.

10 65. Upon information and belief, Defendants have acted with knowledge of
11 Plaintiffs' ownership of the Marks, and with the deliberate intention to unfairly
12 benefit from the goodwill symbolized thereby.

13 66. Defendants' acts constitute willful trademark infringement in violation
14 of 15 U.S.C. § 1114.

15 67. Upon information and belief, by their actions, Defendants intend to
16 continue to engage in their unlawful conduct, and to infringe Sweet People's MISS
17 ME Mark and RCRV's ROCK REVIVAL Mark, unless restrained by this Court.

18 68. Upon information and belief, by their willful acts, Defendants have
19 made and will continue to make substantial profits and gains to which they are not in
20 law or equity entitled.

21 69. Defendants' acts have irreparably damaged and, unless enjoined, will
22 continue to irreparably damage Plaintiffs, and Plaintiffs have no adequate remedy at
23 law.

THIRD CLAIM FOR RELIEF

FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION

(15 U.S.C. § 1125(a))

(ALL DEFENDANTS)

28 ||| 70. The allegations set forth in paragraphs 1 through 69 hereof are adopted

1 and incorporated by reference as if fully set forth herein.

2 71. Defendants' unauthorized distribution and/or sale of Donated Products
3 bearing Plaintiffs' Marks constitutes a commercial use in commerce, and Plaintiffs
4 have not authorized or approved any such use.

5 72. Upon information and belief, the Donated Products improperly
6 transferred or sold by Phoenix Fibers, and subsequently offered for sale by U.S.
7 General Export, SAC Traders, Comak Trading, Wolff and the Retailer Defendants,
8 bear the MISS ME and ROCK REVIVAL Marks, but are of significantly inferior
9 quality than the high-quality denim and apparel products that Plaintiffs authorize for
10 sale to consumers under such Marks.

11 73. Accordingly, Defendants' activities have caused, are intended to cause,
12 and are likely to continue to cause confusion, mistake and deception among the
13 general consuming public and the trade as to the source of the Donated Products,
14 and/or Plaintiffs' authorization, sponsorship, or approval of the sale of Donated
15 Products — *i.e.*, second-quality goods bearing Plaintiffs' incalculably valuable
16 trademarks — to consumers, and/or a possible affiliation, connection or association
17 between Plaintiffs and Defendant.

18 74. Defendants' conduct as aforesaid constitutes a willful false designation
19 of the origin of the Donated Products, and/or false and misleading descriptions and
20 representations of fact, all in violation of 15 U.S.C. § 1125(a).

21 75. Upon information and belief, by their actions, Defendants intend to
22 continue to falsely designate the origin of the Donated Products, and otherwise
23 unfairly compete with Plaintiffs as aforesaid, unless restrained by this Court.

24 76. Upon information and belief, by their willful acts, Defendants have
25 made and will continue to make substantial profits and gains to which they are not in
26 law or equity entitled.

27 77. Defendants' acts have irreparably damaged and, unless enjoined, will
28 continue to irreparably damage Plaintiffs, and Plaintiffs have no adequate remedy at

1 law.

2
3 **FOURTH CLAIM FOR RELIEF**
4 **CALIFORNIA UNFAIR COMPETITION**
5 **(Cal. Bus. & Prof. Code §§ 17200 *et seq.*)**
6 **(ALL DEFENDANTS)**

7 78. The allegations set forth in paragraphs 1 through 77 hereof are adopted
8 and incorporated by reference as if fully set forth herein.

9 79. Defendants' aforesaid acts constitute unlawful, unfair, or fraudulent acts
10 of unfair competition in violation of California Business & Professions Code §§
17200 *et seq.*

11 80. Upon information and belief, Plaintiffs have standing to assert this claim
12 under California Business & Professions Code §§ 17200 *et seq.* because their
13 monetary and property interests have been damaged by Defendants' aforesaid
14 actions. By way of example, upon information and belief, the value of Plaintiffs'
15 MISS ME and ROCK REVIVAL Marks has been and is being significantly
16 diminished by Defendants' actions.

17 81. Upon information and belief, by their actions, Defendants intend to
18 continue their unfairly competitive conduct, unless restrained by this Court.

19 82. Defendants' acts have irreparably harmed and, unless enjoined, will
20 continue to irreparably harm the Plaintiffs, and Plaintiffs have no adequate remedy at
21 law.

22 83. Pursuant to California Business & Professions Code §§ 17200 *et seq.*,
23 Plaintiffs are entitled to injunctive relief and an award of attorneys' fees and costs.

24 **FIFTH CLAIM FOR RELIEF**
25 **CALIFORNIA DILUTION**
26 **(Cal. Bus. & Prof. Code § 14247)**
27 **(ALL DEFENDANTS)**

28 84. The allegations set forth in paragraphs 1 through 83 hereof are adopted
and incorporated by reference as if fully set forth herein.

85. Sweet People is the exclusive owner of the MISS ME Mark, and RCRV is the exclusive owner of the ROCK REVIVAL Mark.

86. Plaintiffs' Marks are famous as defined within Cal. Bus. & Prof. Code § 14247, and are widely recognized by the general consuming public of California as designations of the source of Plaintiffs' products.

87. Defendants' distribution and/or sale, without authorization from Plaintiffs, of second-quality products bearing Plaintiffs' Marks that were not intended to be sold to consumers, is diluting the distinctive quality of Plaintiffs' Marks, and decreasing the capacity of Plaintiffs' Marks to identify and distinguish Plaintiffs' products.

88. Defendants have intentionally and willfully diluted the distinctive quality of the famous MISS ME and ROCK REVIVAL Marks.

89. Upon information and belief, by their actions, Defendants intend to continue their willful dilution of Plaintiffs' Marks, unless restrained by this Court.

90. Defendants' acts have irreparably harmed and, unless enjoined, will continue to irreparably harm the Plaintiffs, and Plaintiffs have no adequate remedy at law.

91. Pursuant to California Business & Professions Code §§ 14247 & 14250, Plaintiffs are entitled to injunctive relief and an award of attorneys' fees and costs.

**SIXTH CLAIM FOR RELIEF
COMMON LAW TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION
(ALL DEFENDANTS)**

92. The allegations set forth in paragraphs 1 through 91 hereof are adopted and incorporated by reference as if fully set forth herein.

93. Defendants' activities have caused, are intended to cause, and are likely to continue to cause confusion, mistake and deception among the general consuming public and the trade as to the source of the Donated Products, and/or Plaintiffs'

1 authorization, sponsorship, or approval of the sale of Donated Products — *i.e.*,
2 second-quality goods bearing Plaintiffs' incalculably valuable trademarks — to
3 consumers, and/or a possible affiliation, connection or association between Plaintiffs
4 and Defendants, in violation of Plaintiffs' rights under the common law of the State
5 of California.

6 94. Upon information and belief, by their actions, Defendants intend to
7 continue their infringing and unfairly competitive acts, unless restrained by this
8 Court.

9 95. Upon information and belief, by their willful acts, Defendants have
10 made and will continue to make substantial profits and gains to which they are not in
11 law or equity entitled.

12 96. Defendants' acts have irreparably damaged and, unless enjoined, will
13 continue to irreparably damage Plaintiffs, and Plaintiffs have no adequate remedy at
14 law.

15 97. Pursuant to the common law of the State of California, Plaintiffs are
16 entitled to injunctive relief, and an award of damages and/or Defendants' profits
17 resulting from Defendants' willful conduct.

18 98. Plaintiffs are further informed and believe that Defendants' conduct was
19 oppressive, fraudulent and malicious, and are thereby entitled to an award of punitive
20 damages.

PRAYER FOR RELIEF

WHEREFORE, Sweet People and RCRV demand judgment against Defendants as follows:

24 1. Finding that, (a) as to Count 1, Phoenix Fibers breached its agreements
25 with Plaintiffs; (b) as to Count 2, Defendants engaged in willful infringement of
26 Plaintiffs' Marks in violation of 15 U.S.C. § 1114; (c) as to Count 3, Defendants
27 engaged in willful false designation of origin and unfair competition in violation of
28 15 U.S.C. § 1125(a); (d) as to Count 4, Defendants engaged in willful unfair

1 competition against Plaintiffs in violation of California Business & Professions Code
2 §§ 17200 *et seq.*; (e) as to Count 5, engaged in willful dilution of Plaintiffs' Marks in
3 violation of California Business & Professions Code § 14247; and (f) as to Count 6,
4 Defendants engaged in willful common law trademark infringement and unfair
5 competition against Plaintiffs.

6 2. That Defendants and all of those acting in concert with them, including
7 their agents and servants, and all those on notice of this suit, be preliminarily and
8 permanently enjoined from:

9 (a) Supplying, distributing, promoting, advertising, offering for sale
10 and/or selling any Donated Products which bear the MISS ME and ROCK REVIVAL
11 Marks, and/or engaging in any other activity constituting an infringement of any of
12 Sweet People's rights in the MISS ME Mark and RCRV's rights in the ROCK
13 REVIVAL Mark;

14 (b) Engaging in any activity constituting unfair competition, false
15 designation of origin, or false advertising with Sweet People or RCRV, or any other
16 acts or practices that deceive the public and/or the trade.

17 3. That Defendants be required to take such other measures as the Court
18 may deem appropriate to prevent the public from deriving any erroneous impression
19 that Donated Products bearing the MISS ME or ROCK REVIVAL Marks are
20 products that Plaintiffs intended for sale to consumers.

21 4. That Defendants be required to recall all Donated Products.

22 5. That the Court award Sweet People (a) its actual damages resulting from
23 Phoenix Fibers' breaches of contract; (b) Defendants' profits and Sweet People's
24 damages, to the full extent provided for under 15 U.S.C. § 1117 and/or § 1125, with
25 any monetary relief to be trebled; (c) attorneys' fees and injunctive and other
26 equitable relief, to the full extent provided for by California Business & Professions
27 Code §§ 17200 *et seq.*, §§ 17500 *et seq.*, and § 14247; (d) actual and punitive
28 damages as provided under the common law of the State of California; and (e) Sweet

People's attorneys' fees and litigation-related expenses incurred herein.

6. That the Court award RCRV (a) its actual damages resulting from Phoenix Fibers' breaches of contract; (b) Defendants' profits and RCRV's damages, to the full extent provided for under 15 U.S.C. § 1117 and/or § 1125, with any monetary relief to be trebled; (c) attorneys' fees and injunctive and other equitable relief, to the full extent provided for by California Business & Professions Code §§ 17200 *et seq.* and §§ 17500 *et seq.* and § 14247; (d) actual and punitive damages as provided under the common law of the State of California; and (e) RCRV's attorneys' fees and litigation-related expenses incurred herein.

7. That Sweet People and RCRV be awarded pre-judgment and post-judgment interest on any monetary awards made as part of the judgment against Defendants.

8. That Sweet People and RCRV be awarded such additional and further relief as the Court deems just and proper.

Dated: May 18, 2016

ARNOLD & PORTER LLP

By: /s/ Eric D. Mason
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Attorneys for Plaintiffs Sweet People Apparel, Inc. d/b/a Miss Me and RCRV, Inc. d/b/a Rock Revival

1 EXHIBIT A
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7 **United States of America**
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MISS ME

Reg. No. 4,392,381

SWEET PEOPLE APPAREL, INC. (CALIFORNIA CORPORATION)
4715 S. ALAMEDA STREET

Registered Aug. 27, 2013

LOS ANGELES, CA 90058

Int. Cl.: 25

FOR: MEN'S, WOMEN'S, CHILDREN'S APPAREL NAMELY SHIRTS, BLOUSES, JEANS,
TROUSERS, SLACKS, COATS AND DRESSES, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK

FIRST USE 1-22-2001; IN COMMERCE 1-22-2001.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,602,727, 3,790,104 AND OTHERS.

SER. NO. 85-893,215, FILED 4-2-2013.

KIMBERLY PARKS, EXAMINING ATTORNEY



Susan Sweet Lee
Acting Director of the United States Patent and Trademark Office

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2

Int. Cl.: 25

3

Prior U.S. Cls.: 22 and 39

4

United States Patent and Trademark Office

Reg. No. 3,651,168

Registered July 7, 2009

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TRADEMARK
PRINCIPAL REGISTER

7

The logo consists of the words "Miss Me" in a stylized, flowing black font. The letters are slightly overlapping and have a decorative, scalloped edge.

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SWEET PEOPLE APPAREL, INC. (CALIFORNIA
CORPORATION)
1125 E. PICO BLVD.
LOS ANGELES, CA 90021

SWIM WEAR FOR GENTLEMEN AND LADIES; T-
SHIRTS; TROUSERS; VESTS, IN CLASS 25 (U.S. CLS.
22 AND 39).

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FOR: BLOUSES; CAMISOLES; CARDIGANS;
COATS FOR MEN AND WOMEN; DRESSES; JACK-
ETS; JEANS; MEN AND WOMEN JACKETS, COATS,
TROUSERS, VESTS; PANTS; SCARVES; SHIRTS;
SKIRTS AND DRESSES; SLACKS; SWEATERS;

FIRST USE 9-1-2004; IN COMMERCE 9-1-2004.

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SER. NO. 78-760,331, FILED 11-23-2005.

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SHAUNIA CARLYLE, EXAMINING ATTORNEY

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EXHIBIT B

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,319,860
Registered Oct. 23, 2007

**TRADEMARK
PRINCIPAL REGISTER**

ROCK REVIVAL

GOAPPAREL, LLC (CALIFORNIA LTD LIAB CO)
1600 EAST OLYMPIC BLVD.
LOS ANGELES, CA 90021

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: CLOTHING, NAMELY, PANTS, SHORTS,
JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

SN 78-598,611, FILED 3-30-2005.

FIRST USE 11-23-2005; IN COMMERCE 3-17-2006.

EUGENIA MARTIN, EXAMINING ATTORNEY

United States of America



Reg. No. 3,939,054 RCRV, INC. (CALIFORNIA CORPORATION)
Registered Mar. 29, 2011 4715 S. ALAMEDA ST.
LOS ANGELES, CA 90058

Int. Cl.: 25 FOR: JACKETS; JEANS; PANTS; SHORTS; TROUSERS, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK FIRST USE 3-2-2009; IN COMMERCE 3-2-2009.

PRINCIPAL REGISTER OWNER OF U.S. REG. NOS. 3,319,860 AND 3,581,968.

THE MARK CONSISTS OF THE WORDS "ROCK" AND "REVIVAL" IN BANNERS OVER A FLEUR-DE-LYS.

SN 77-981,192, FILED 11-13-2009.

DANNEAN HETZEL, EXAMINING ATTORNEY



David S. Kappas

Director of the United States Patent and Trademark Office